

REMARKS

The following remarks are offered in complete response to the Official Action/Restriction and Election of Species Requirement dated October 6, 2006. In light of these remarks, reconsideration of the requirements and examination of all of the claimed subject matter on the merits are respectfully requested.

Claims 40-136 are now pending in this application.

Claims 40, 44-47, 65, 67, 69-72, 75, 77, 79-82, 85, 87, 89-92, 95, 97, 99-102, 105, 107, 109-112 and 115 have been amended to specify that the metal is a salt. Support for this amendment is found at least in paragraph [0040]. Claim 48 has been amended to be consistent with Claim 40 and is supported by at least paragraph [0038]. Claims 49-54, 73, 74, 83, 84, 93, 94, 103, 104, 113 and 114 have been amended to be consistent with the claims from which they depend. Claims 60, 61 and 64 have been amended to specify that the metal is a salt, consistent with Claim 40. Claims 62 and 63 have been amended consistent with the claims from which they depend. Claim 87 has also been amended to depend from Claim 77. Claims 88-94 have been amended to delete the phrase "for improving the quality and/or the appearance of a head of hair" as this language is in Claim 87 from which these claims depend. Claims 88-93 have also been amended to depend from Claim 87 instead of Claim 40. Claim 95 has also been amended to depend from Claim 85. Claim 96 has been amended to depend from Claim 86. Claims 98-104 have been amended to delete the phrase "for inducing repigmentation of the hair" as this language is in Claim 97 from which these claims depend. Claim 107 has also been amended to depend from Claim 77. Claims 108-116 have been amended to delete the phrase "for the treatment of alopecia" as similar language is in Claim 107 from which these claims depend.

Claims 117-136 have been added. Claims 117-126 are analogous to claims 87-96, except Claim 87 depends from Claim 67, which is directed to a regime or regimen for increasing the mean diameter of strands of hair and/or decreasing the heterogeneity thereof. Claims 127-136 are analogous to Claims 107-116, except Claim 127 depends from Claim 67, which is directed to a regime or regimen for increasing the mean diameter of strands of hair and/or decreasing the heterogeneity thereof.

Restriction has been required between Group I, Claims 40-66 and 88-92; Group II, Claims 67-76; Group III, Claims 77-86; Group IV, Claims 87, 95 and 96; Group V, Claims 97-106; and Group VI, Claims 107-116.

Applicants hereby elect, with traverse, Group III. As discussed below, amended Claims 87-96 and 107-116, which previously belonged to Groups IV and VI, respectively, now belong in Group III by virtue of their dependency, directly or indirectly, from Claim 77. Thus, all of Claims 77-96 and 107-116 read on elected Group III.

In response to the requirement for election of species for specific compounds, applicants hereby elect, with traverse, the single disclosed species comprising β -carotene, α -tocopherol, sodium ascorbate, sodium selenite and zinc chloride. In response to the requirement for election of species for the route of administration, applicants hereby elect, with traverse, the route of administration as oral. Claims 77-96 and 107-116 read on the elected species for specific compounds and specific route of administration. In addition, Claims 84, 86, 94, 96, 114 and 116 specifically read on sodium selenite and Claims 83, 93 and 113 specifically read on zinc chloride.

Groups IV and VI are no longer independent groups as a result of the amendment to the claims. The claims of Group IV (a regime or regimen for improving the quality and/or appearance of a head of hair) and Group VI (a regime or regimen for the treatment of alopecia) have been amended to depend from Claim 77, which is in Group III. Therefore Claims 87-96 (Group IV) and Claims 107-116 (Group VI) are now part of Group III.

For proper restriction between patentably distinct inventions: (1) the inventions must be independent or distinct as claimed; and (2) there must be a serious burden on the Examiner if restriction is not required. See M.P.E.P. § 803.

The Examiner takes the position that:

The six inventions above are independent and distinct, each from the other; and, require independent searches as each of the regimes or regimens for the treatment of hair or the disease condition of alopecia are characterized by divergently different clinical manifestations or divergent pathologies. Therefore, the search for each of the above inventions is not co-extensive particularly with regard to the literature search. Further a reference which would anticipate the invention of one group would not necessarily anticipate or even make obvious another group. Finally, the consideration of patentability is different in each case. Thus, it would be an undue burden to examine all of the above invention in one application. (See Official Action at page 3.)

The Requirement for Restriction should be withdrawn because it is believed that search and examination of the subject matter of Groups I and III would be substantially coextensive. Group I is drawn to a regime or regimen for promoting regrowth of hair and/or retarding hair loss by administering the same designated composition as recited in Group III, while Group III is drawn to a regime or regimen for increasing hair density by administering a claim designated composition. Elected

Group III can occur as a result of the process described in Group I, that is increasing hair density can occur as a result of promoting regrowth of hair and/or retarding hair loss. Therefore Group I should be considered together with elected Group III. Applicants further submit that it is likely that a search of the claims of elected Group III and those of Group I would be coextensive.

With regards to Groups II and V, Applicants submit that it is likely that a search of the claims of Group III relating to increasing hair density (Group III) would be coextensive with a search of the claims of Group II relating to increasing the mean diameter of strands of hair and/or decreasing the heterogeneity thereof and a search for inducing repigmentation of hair (Group V).

Thus, Applicants submit that search and examination of the subject matter of elected Group III would likely encompass a search for the subject matter for Groups I, II and V, and any additional search would not impose a serious burden on the Examiner.

For at least the reasons given above, reconsideration and withdrawal of the restriction and election requirements and examination of all of the claims on the merits are respectfully requested.

Acknowledgment of the priority claims is requested.

Respectfully submitted,

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